

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Currently, claims 1-46 are pending in the present application of which claims 1, 9, 16, 24, 31, and 39 are independent. New claims 47 and 48 have been added to define additional aspects of the invention.

**Claim Rejection Under 35 U.S.C. §103**

Claims 1, 2, 5, 6, 9, 11, 14-17, 20, 21, 24, 26, 31, 32, 35, 36, 39, 40, 43 and 44 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Berruto (EP 0 627 827) in view of Shiobara (U.S. Patent Number 5,535,214). Claims 3, 4, 7, 8, 10, 12, 13, 18, 19, 22, 23, 25, 27-30, 33, 34, 37, 38, 41, 42, 45 and 46 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Berruto in view of Shiobara and further in view of Holden. The above rejections are respectfully traversed for at least the reasons set forth below.

**Reply to Examiner's Response to Arguments**

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

In the Response to Arguments section, the Final Office Action indicated "the Examiner cited and relied on column 7, lines 21-29 of Shiobara for the teachings of "determining a transmission deadline of the packets of data." Applicant respectfully submits that this is an improperly broad interpretation of Shiobara. As will be explained in detail below, the claimed

term "transmission deadline" recited in claim 1 is distinguished from "margin time (deadline)" as taught by Shiobara.

At the portion of Shiobara relied upon by the Examiner, Applicant submits that Shiobara merely discloses that "the application process A generates a transmission request having a margin time (deadline) Tds0 with respect to the application process B, the transmission stack As rearranges the transmission queue on the basis of the margin time Tds0, and performs transmission processing of a transmission request having the highest urgency first" (col. 7, lines 21-26; emphasis added).

Shiobara's teaching of "margin time" is defined as follows:

the application process A generates a request to transmit predetermined data to the application process B at time T0, a margin time Tds0 is determined on the basis of the difference between time T0 and the current timing. This request is transmitted to the transmission stack As to be added to a transmission queue already formed. In this case, if the current timing is time T1, a margin time Tds1 is determined on the basis of the difference between time T0 and time T1.

(col. 6, lines 3-11; emphasis added.)

However, the recited term "transmission deadline" set forth in claim 1 is a "deadline ... associated with each packet based on the packet arrival time and the maximum permitted delay for that service (or flow)." (See Specification at [1023], emphasis added.)

In summary, Shiobara's margin time is time duration between the request for a packet of data, and the current timing, which is merely a latency value based upon the network latency and/or the processing latencies of application processes. The recited term "transmission

deadline" is more than a mere latency due to system delays, and includes maximum permitted delays based upon a servers (or flow) associated with the data packet.

Accordingly, Shiobara fails to teach "determining a transmission deadline of the packets of data," and Applicant respectfully requests that the Examiner withdraw the rejection of the claim 1. Independent claims 9, 16, 24, 31 and 39 recite related subject matter, and are thus allowable at least for similar reasons.

#### **SUMMARY**

Since the Examiner has maintained his rejection of the claims as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the November 18, 2008 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant's response of November 18, 2008, it is respectfully submitted that independent claims 1, 9, 16, 24, 31 and 39 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

For example, the prior art of record fails to teach or suggest, "wherein updated information relating to the queue length and packet delay deadlines are available at a mobile

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station," as recited in claim 47; or "wherein a resource manager allocating the negotiated Quality of Service is performed at the base station," as recited in claim 48.

**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 17-0026 and please credit any excess fees to such Deposit Account.

Respectfully submitted,

Dated: 5/27/09

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